

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

DR. LEAH N. TORRES,

Plaintiff

v.

**THE WESTERN JOURNAL, LLC,
LIFTABLE MEDIA, INC., AND THE
DAILY CALLER, INC.,**

Defendants

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**CIVIL NO. 1-20-MC-269-RP
(underlying Case No. 2:19-cv-00175-BSJ)**

ORDER

Before the Court is Petitioners Upland Software, Inc. and PostUp Digital, LLC’s Motion to Quash, filed March 13, 2020 (Dkt. No. 1). Plaintiff has not filed a response to the motion. On March 26, 2020, the District Court referred the motion to the undersigned for resolution pursuant to 28 U.S.C. § 636(b)(1)(A), Federal Rule of Civil Procedure 72, and Rule 1 of Appendix C of the Local Rules of the United States District Court for the Western District of Texas (“Local Rules”).

On March 13, 2019, Plaintiff Dr. Leah N. Torres filed suit in the United States District Court for the District of Utah, alleging that Defendants The Western Journal, LLC, Liftable Media, Inc., and The Daily Caller, Inc. (“Defendants”) are liable for defamation, false light, invasion of privacy, intentional infliction of emotional distress, and tortious interference for their publication of certain statements concerning Plaintiff. *See Torres v. Western Journal*, 2:19-cv-00175-BSJ (D. Utah Mar. 13, 2019).

During the jurisdictional discovery period, Plaintiff issued two subpoenas to third-party Petitioners Upland Software, Inc. and PostUp Digital, LLC (“Petitioners”) requesting certain information on an email platform they may have provided to the Defendants. Petitioners filed their

Motion to Quash pursuant to Federal Rule of Civil Procedure 45(d)(3), arguing that the subpoenas should be quashed because jurisdictional discovery ended on March 13, 2020.

As noted above, Plaintiff failed to timely respond to the Petitioners' Motion. Pursuant to Local Rule CV-7(e)(2), if no response is filed within the time period prescribed by the rules, the court may grant the motion as unopposed. *See id.* (stating that responses to non-dispositive motions are due within 7 days after the filing of the motion). Accordingly, the Court **GRANTS** the District's Motion to Quash (Dkt. No. 1) as unopposed pursuant to Local Rule CV-7(e)(2).

IT IS FURTHER ORDERED that that the Clerk remove this case from the Magistrate Court's docket and **RETURN** it to the docket of the Honorable Robert Pitman.

SIGNED on March 30, 2020.



SUSAN HIGHTOWER
UNITED STATES MAGISTRATE JUDGE